

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

READY CAPITAL CORPORATION,
a Maryland corporation,
READYCAP COMMERCIAL, LLC, a
Delaware limited liability company,
and READYCAP HOLDINGS, LLC,
a Delaware limited liability
company,

Plaintiffs,

vs.

READY CAPITAL CORPORATION,
a Michigan corporation,

Defendant.

Case No. 19-cv-13536-DML-EAS

Hon. David M. Lawson

**PLAINTIFFS' ANSWER AND AFFIRMATIVE DEFENSES TO
DEFENDANT'S COUNTERCLAIMS**

Plaintiffs Ready Capital Corporation, ReadyCap Commercial, LLC, and ReadyCap Holdings, LLC ("Plaintiffs") submit the following Answer in response to the Counterclaims filed March 10, 2020 by Defendant Ready Capital Corporation ("Defendant"). Except as otherwise expressly admitted, Plaintiffs deny each and every allegation contained in Defendant's Counterclaims.

PARTIES

1. Answering Paragraph 1, admitted.

2. Answering Paragraph 2, admitted to the extent “Plaintiff/Counter-Defendant” is a reference to Plaintiff Ready Capital Corporation, otherwise denied.

3. Answering Paragraph 3, admitted.

4. Answering Paragraph 4, admitted.

JURISDICTION AND VENUE

5. Answering Paragraph 5, denied, except Plaintiffs admit the cited causes of action have been asserted in this litigation.

6. Answering Paragraph 6, admitted.

7. Answering Paragraph 7, admitted.

GENERAL ALLEGATIONS

8. Answering Paragraph 8, denied, except Plaintiffs admit that Defendant has used the name “Ready Capital Corporation.”

9. Answering Paragraph 9, Plaintiffs are without knowledge or information sufficient to form a belief as to the truth of Defendant’s allegations.

10. Answering Paragraph 10, denied.

11. Answering Paragraph 11, denied.

12. Answering Paragraph 12, denied, except Plaintiffs admit to marketing lending services and consummating loan transactions under Plaintiffs’ READY CAPITAL mark in connection with the identified loan transactions.

13. Answering Paragraph 13, denied.

**COUNT I
DECLARATORY JUDGMENT OF NON-INFRINGEMENT**

14. Answering Paragraph 14, Plaintiffs repeat and reallege Paragraphs 1 through 13 as if fully set forth herein.

15. Answering Paragraph 15, denied.

16. Answering Paragraph 16, denied.

**COUNT II
CANCELLATION OF PLAINTIFFS'/COUNTER-DEFENDANTS/
CLAIMED "READY CAPITAL" MARK**

17. Answering Paragraph 17, Plaintiffs repeat and reallege Paragraphs 1 through 16 as if fully set forth herein.

18. Answering Paragraph 18, admitted.

19. Answering Paragraph 19, denied, except Plaintiffs admit that Defendant's website, www.readycapitalmi.com, was locatable by internet search at some time prior to January 20, 2017.

20. Answering Paragraph 20, denied.

21. Answering Paragraph 21, denied.

22. Answering Paragraph 22, denied.

**COUNT III
False Designation of Origin
(15 U.S.C. § 1125(a))**

23. Answering Paragraph 23, Plaintiffs repeat and reallege Paragraphs 1 through 22 as if fully set forth herein.

24. Answering Paragraph 24, denied.

25. Answering Paragraph 25, denied.

26. Answering Paragraph 26, denied.

27. Answering Paragraph 27, denied.

28. Answering Paragraph 28, denied.

29. Answering Paragraph 29, denied.

COUNT IV

Deceptive Trade Practices (M.C.L. § 445.903)

30. Answering Paragraph 30, Plaintiffs repeat and reallege Paragraphs 1 through 29 as if fully set forth herein.

31. Answering Paragraph 31, denied.

32. Answering Paragraph 32, denied.

33. Answering Paragraph 33, denied.

34. Answering Paragraph 34, denied.

COUNT V

Common Law Trademark Infringement

35. Answering Paragraph 35, Plaintiffs repeat and reallege Paragraphs 1 through 34 as if fully set forth herein.

36. Answering Paragraph 36, denied.

37. Answering Paragraph 37, denied.

38. Answering Paragraph 38, denied.

First Affirmative Defense

Defendant's Counterclaim fails, in whole or in part, to state a claim upon which relief can be granted.

Second Affirmative Defense

Defendant's claims are barred, in whole or in part, by the doctrine of laches, waiver, acquiescence, and/or estoppel.

Third Affirmative Defense

Plaintiffs' claims are barred, in whole or in part, by unclean hands.

Prayer for Relief

WHEREFORE, Plaintiffs deny in all respects each of Defendants payers for relief, and respectfully request that the Court enter a judgment in its favor and against Defendants:

- (a) Dismissing Defendant's counterclaims with prejudice and on the merits;
- (b) Awarding Plaintiffs costs, expenses, and attorneys' fees incurred in defense of Defendant's Counterclaim; and
- (c) Awarding Plaintiffs such other relief as the Court may deem just and equitable under the circumstances.

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury on all issues triable by jury.

Dated: May 8, 2020

s/James J. Saul

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CERTIFICATE OF SERVICE

I certify that on May 8, 2020, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel of record on the ECF Service List.

By: /s/ Terry Conn
Terry Conn